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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,) No. CR 08-00351 SBA
Plaintiff,) STIPULATION AND [PROPOSED]
v.) ORDER CONTINUING STATUS
KENNETH MOORE,) CONFERENCE AND EXCLUDING TIME
Defendant.) OAKLAND VENUE

Plaintiff, by and through its attorney of record, and defendant, by and through his attorney of record, hereby stipulate and ask the Court to find as follows:

1. A status conference in this matter is currently scheduled for 9 a.m. on Thursday, June 19, 2008.

2. The parties request that this hearing be continued until 9 a.m. on Tuesday, July 8, 2008, in order to provide defendant's counsel with additional time to evaluate the evidence in this case and determine whether or not defendant should enter a change of plea or file motions and to prepare for trial in this matter.

**STIPULATION AND PROPOSED ORDER CONTINUING
STATUS CONFERENCE AND EXCLUDING TIME**

3. Specifically, defendant's counsel needs the continuance in order to review the evidence in this case, to review and analyze the discovery materials produced (including lengthy audio/video recordings of the alleged controlled purchases of narcotics), investigate the case (including retrieving and review the documents underlying defendant's prior convictions to determine whether or not he is a career offender under the United States Sentencing Guidelines), and develop a motions and/or trial strategy in light of that discovery. The parties believe that failure to grant the above-requested continuance would deny defendant's counsel and defendant the reasonable time necessary for effective preparation taking into account the exercise of due diligence and that the ends of justice served by continuing the case as requested outweigh the interest of the public and defendant in a trial within the date prescribed by the Speedy Trial Act.

4. Thus, the parties respectfully request that the Court find that the time period from June 19, 2008, to July 8, 2008, is excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by the Court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and because failure to grant the continuance would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence.

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: June 17, 2008

/s/
GARTH HIRE
Assistant United States Attorney

Attorney for United States of America

Dated: June 17, 2008

/s/
DIANA WEISS

Attorney for Defendant
Kenneth Moore

[PROPOSED] ORDER

FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT AND CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO FOUND AND ORDERED THAT:

1. The currently scheduled June 19, 2008, status conference hearing is vacated. A status conference hearing is now scheduled for 9:00 a.m. on July 8, 2008.

2. The time period from June 19, 2008, to July 8, 2008, is deemed excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by the Court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and because failure to grant the continuance would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence. The Court finds that nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which trial must commence.

DATED: _____

HONORABLE SAUNDRA BROWN ARMSTRONG
UNITED STATES DISTRICT JUDGE